

HR Weekly Podcast

5/28/2014

Today is May 28, 2014, and welcome to the HR weekly podcast from the State Human Resources Division. Today's topic discusses whether an employee can use Family Medical Leave Act, or FMLA, leave for a doctor's visit to determine if he has a serious health condition.

Melody Baucom, an optical eye assistant, requested FMLA leave to go to a doctor's appointment for medical tests to determine if she had a medical illness. Since she had not been absent from work for three consecutive days and the company did not believe her condition met the definition of a serious health condition, it denied her request for FMLA leave. The employer told Baucom she could use personal time off, or PTO, for the appointment. Since she did not have any PTO days left, the employer told her she would be fired if she attended the appointment. Baucom kept her appointment, and the employer fired her.

Baucom sued the employer saying that she was entitled to use FMLA leave for testing to determine if she had a serious health condition. The employer argued that she was not eligible for FMLA leave because her condition did not rise to the level of a serious health condition. The court sided with Baucom saying a doctor's visit to obtain test results to determine whether a serious health condition exists can be covered by FMLA.

Employers may only rely on the definition of a "serious health condition" as provided by the FMLA to determine if an employee's request for FMLA leave should be approved or denied. Before an employer decides to terminate an employee based on the employee's absence from work to see a healthcare provider after the employer has denied the employee's request for FMLA leave, the employer should complete a thorough review of the situation and consider involving legal counsel in the decision.

If you have a question about this topic, please contact your HR Consultant at 803-896-5300. Thank you.